

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – OFFICE OF CHIEF COUNSEL  
JULY 7, 2020**

**ITEM 5**

**SUBJECT**

CONSIDERATION OF A PROPOSED ORDER DENYING PETITIONS FOR RECONSIDERATION BY BLOOMINGCAMP WATER SYSTEM OF ENFORCEMENT ACTIONS TAKEN BY STANISLAUS COUNTY AS LOCAL PRIMARY AGENCY UNDER THE CALIFORNIA SAFE DRINKING WATER ACT.

**DISCUSSION**

Bloomingscamp Water System (Bloomingscamp), a transient non-community water system in Stanislaus County, petitioned the State Water Resources Control Board (State Water Board) for reconsideration of enforcement actions taken by Stanislaus County (County) for Bloomingscamp's violation of the maximum contaminant level (MCL) for nitrate.

The County issued a compliance order to Bloomingscamp, which, as amended, required the submission of a corrective action plan and technical report, quarterly monitoring for nitrate, and public notification. Bloomingscamp submitted a corrective action plan and technical report that proposed relying on the permanent use of bottled water for complying with the MCL for nitrate and did not address the water served to all users of the system. The County rejected the plan and report because, among other reasons, Bloomingscamp proposed the permanent use of bottled water to comply with the MCL for nitrate, and because it did not propose solutions for water served to all of its users. After Bloomingscamp submitted a revised corrective action plan and technical report without correcting those deficiencies, and after Bloomingscamp failed to submit proof that it had notified its users of the nitrate contamination, the County cited Bloomingscamp with a penalty of \$12,000.

Bloomingscamp petitioned the State Water Board for reconsideration of the County's rejection of its corrective action plan. It also petitioned the State Water Board for reconsideration of the County's issuance of the monetary penalty. The State Water Board must decide whether to modify the County's decisions or deny Bloomingscamp's petitions for reconsideration.

**POLICY ISSUES**

Bloomingscamp's petitions require the State Water Board to clarify whether public water systems may petition the board for reconsideration of enforcement actions taken by counties acting as local primacy agencies under the Safe Drinking Water Act.

If public water systems may petition the board for reconsideration of county decisions, then the State Water Board needs to address three additional issues to resolve the petitions:

- (1) Is bottled water appropriate as a permanent solution to an MCL violation?
- (2) Is a public water system required to provide safe drinking water to all its users? and
- (3) What standard of review should apply to the State Water Board in reviewing a petition for reconsideration alleging that the penalty imposed by a county acting as local primacy agency is excessive?

### **FISCAL IMPACT**

This item does not impact the State Water Board's fiscal position except indirectly insofar as reviewing petitions for reconsideration of county decisions requires the time of State Water Board staff.

### **REGIONAL BOARD IMPACT**

None.

### **STAFF RECOMMENDATION**

**Staff recommend denying Bloomingcamp's petitions for the reasons set forth in the proposed order.** The proposed order holds that a petition for reconsideration may be filed for actions by a county acting as local primacy agency under the Safe Drinking Water Act. The proposed order further concludes that:

- (1) Bottled water is not appropriate as a permanent solution to an MCL violation;
- (2) A public water system must provide safe drinking water to all its users; and
- (3) In acting on a petition for reconsideration of a penalty imposed by a county as local primacy agency, the State Water Board will review the county's determination of the amount of the penalty for abuse of discretion or error in law.

Staff released the proposed order for a thirty-day public comment period. The proposed order and any written responses to comments are available on the board meeting agenda at: [https://www.waterboards.ca.gov/board\\_info/calendar/#07-2020](https://www.waterboards.ca.gov/board_info/calendar/#07-2020)